

ASSEMBLY BILL

No. 1028

**Introduced by Committee on Public Employees, Retirement and
Social Security (Furutani (Chair), Allen, Ma, and Wieckowski)**

February 18, 2011

An act to amend Sections 20096.5, 20636.1, 20814, 21221, 21224, 21228, 21229, 21490, 21493, 21506, and 21507 of, and to add Section 21533.5 to, the Government Code, relating to state employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as introduced, Committee on Public Employees, Retirement and Social Security. State employees' retirement.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. PERL vests the Board of Administration of PERS with management and control of the system. PERL sets forth the membership of the board, including 6 members elected under the supervision of the board, as specified. Under PERL, candidates for or incumbents of those 6 elected seats are required to file campaign statements with the Secretary of State no later than two days before the beginning of the ballot period, as determined by the board for the period ending five days before the beginning of the ballot period, and no later than January 10, for the period ending December 31. The Political Reform Act of 1974 expressly applies to candidates for elections to the board and to committees that are formed primarily to support or oppose those candidates. It requires those members to file semiannual campaign

statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

This bill would clarify that the filing provisions under the Political Reform Act would apply.

(2) PERL defines “payrate” for school members as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For other members, PERL specifically includes the amount deducted from a member’s salary for participation in a deferred compensation plan, a retirement plan or money purchase pension plan under a specified provision of federal law, and a participation in a flexible benefits program.

This bill would modify the definition of “payrate” for school members to include those amounts deducted from a school member’s salary.

(3) PERL requires the state’s contribution to be adjusted from time to time in the annual Budget Act by requiring that the Governor’s proposed budget include the contribution rates submitted by the actuary of the liability for benefits on account of employees of the state, and requiring that the Legislature adopt the actuary’s contribution rates and authorize the appropriation in the Budget Act.

This bill would instead require the board to adopt the state contribution rates and then requiring the Legislature to adopt the board’s contribution rates and authorize the appropriation in the Budget Act. The bill would also authorize the board, in its discretion, to adopt new quarterly employer contribution rates for future contributions for the state plans to reflect changes in employee retirement contributions, benefits, or pension plan design contained in a memorandum of understanding, or similar changes for unrepresented employees, when those changes go into effect after the board has adopted its most recent annual employer contribution rates.

(4) PERL generally prohibits any person who has been retired under PERS from being employed in any capacity unless he or she is first reinstated from retirement, except as authorized. PERL authorizes a retired person to serve without reinstatement from retirement or loss or interruption of benefits provided by PERS, upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business.

These appointments are prohibited from exceeding a total for all employers of 960 hours in any fiscal year.

This bill would require that the appointment be an interim appointment to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. The bill would prohibit the compensation for the interim appointment from exceeding the maximum published pay schedule for the vacant position. The bill would prohibit a governing body of a contracting agency from appointing a retired person under this provision more than once.

(5) PERL similarly authorizes a retired person to serve without reinstatement from retirement or loss or interruption of benefits provided by PERS upon appointment by a school employer, by the Trustees of the California State University, the appointing power of a state agency, or public agency employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration.

This bill would clarify that those appointments would be temporary or interim and that the skills must be specialized.

(6) PERL also authorizes a person retired for disability who has not attained the mandatory age for retirement applicable to persons in the employment in which he or she will be employed, and whom the board finds not disabled for that employment, to be employed by any employer without reinstatement from retirement in a position other than that from which he or she retired or a position in the same member classification.

This bill would prohibit a person employed under that provision from being concurrently employed under other specified provisions that allow for employment after retirement.

(7) PERL authorizes a member at any time to designate a beneficiary to receive the benefits as may be payable to his or her beneficiary or estate under PERL, by a writing filed with the board.

This bill would authorize a writing filed with the board to include a will or trust if the document lists the retirement benefit as an asset. The bill would also authorize a will or trust to be accepted as a writing filed with the board if the will or trust disinherits one or all of either the previously designated beneficiary or closest survivors, as specified. The bill would deem a will or trust that is accepted as a writing filed with the board as designating the estate or trust as a beneficiary.

(8) PERL requires a death benefit to be paid to the estate of the decedent if the decedent had no effective beneficiary designation and

there are no familial survivors, as specified, who are entitled to the benefit, if the estate is either probated or subject to probate. PERL also provides for the payment to a decedent's beneficiaries of any accrued and unpaid monthly allowance payable to a person, any uncashed warrant, any balance of prepaid complementary health premiums, any prepaid complementary annuitant health plan premiums, lump-sum benefit, or any uncashed lump-sum death benefit.

This bill would authorize those benefits to be paid upon receipt by PERS of a court order authorizing the Public Administrator to proceed summarily when the estate is handled by a Public Administrator or does not require probate, otherwise the benefit would be paid to the decedent's trust or other familial survivors, as specified.

(9) The federal Heroes Earnings Assistance and Relief Tax Act of 2008 requires survivors of a member who dies while performing qualified military service to be entitled to any benefits they would have received had the member remained an active employee.

This bill would make changes to conform California law to that federal act.

The bill would also make related technical changes to the above-described provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20096.5 of the Government Code is
2 amended to read:
3 20096.5. ~~(a) Candidates for board seats described in~~
4 subdivision (g) of Section 20090, including incumbent board
5 members running for reelection, shall file campaign statements
6 with the Secretary of State ~~no later than two days before the~~
7 ~~beginning of the ballot period, as determined by the board for the~~
8 ~~period ending five days before the beginning of the ballot period,~~
9 ~~and no later than January 10, for the period ending December 31~~
10 ~~and the board pursuant to Article 2 (commencing with Section~~
11 ~~84200) of Chapter 4 of Title 9.~~
12 ~~(b) The campaign statements shall contain an itemized report~~
13 ~~that is prepared on a form prescribed by the Fair Political Practices~~
14 ~~Commission, with the assistance of the board, that provides the~~
15 ~~information contained in campaign statements filed under Section~~

1 ~~84211 to the extent that that information is applicable to a board~~
2 ~~election.~~

3 ~~(e) The original of a campaign statement shall be filed with the~~
4 ~~Secretary of State and a copy shall be retained by the executive~~
5 ~~officer at the board's office in Sacramento and is a public record.~~

6 ~~(d) All campaign statements filed under this section shall be~~
7 ~~signed and verified by the filer. The verification shall state that~~
8 ~~the filer has used reasonable diligence in its preparation, and that~~
9 ~~to the best of his or her knowledge it is true and complete. Any~~
10 ~~person who violates the requirements of this section shall be subject~~
11 ~~to a civil or administrative action brought by the Fair Political~~
12 ~~Practices Commission or other agency of concurrent jurisdiction~~
13 ~~pursuant to Title 9 (commencing with Section 81000).~~

14 SEC. 2. Section 20636.1 of the Government Code is amended
15 to read:

16 20636.1. (a) Notwithstanding Section 20636, and Section
17 45102 of the Education Code, "compensation earnable" by a school
18 member means the payrate and special compensation of the
19 member, as defined by subdivisions (b) and (c), and as limited by
20 Section 21752.5.

21 (b) (1) "Payrate" means the normal monthly rate of pay or base
22 pay of the member paid in cash to similarly situated members of
23 the same group or class of employment for services rendered on
24 a full-time basis during normal working hours. For purposes of
25 this part, for classified members, full-time employment is 40 hours
26 per week, and payments for services rendered, not to exceed 40
27 hours per week, shall be reported as compensation earnable for all
28 months of the year in which work is performed. "Payrate," for a
29 member who is not in a group or class, means the monthly rate of
30 pay or base pay of the member, paid in cash and pursuant to
31 publicly available pay schedules, for services rendered on a
32 full-time basis during normal working hours, subject to the
33 limitations of paragraph (2) of subdivision (e).

34 (A) "Payrate" shall include an amount deducted from a
35 member's salary for any of the following:

36 (i) Participation in a deferred compensation plan.

37 (ii) Payment for participation in a retirement plan that meets
38 the requirements of Section 401(k) or 403(b) of Title 26 of the
39 United States Code.

1 (iii) *Payment into a money purchase pension plan and trust that*
2 *meets the requirements of Section 401(a) of Title 26 of the United*
3 *States Code.*

4 (iv) *Participation in a flexible benefits program.*

5 ~~(A)~~

6 (B) For the purposes of this section, “classified members” shall
7 mean members who retain membership under this system while
8 employed with a school employer in positions not subject to
9 coverage under the Defined Benefit Program under the State
10 Teacher’s Retirement System.

11 ~~(B)~~

12 (C) For the purposes of this section, and Sections 20962 and
13 20966, “certificated members” shall mean members who retain
14 membership under this system while employed in positions subject
15 to coverage under the Defined Benefit Program under the State
16 Teacher’s Retirement System.

17 (2) The computation for any leave without pay of a member
18 shall be based on the compensation earnable by him or her at the
19 beginning of the absence.

20 (3) The computation for time prior to entering state service shall
21 be based on the compensation earnable by him or her in the position
22 first held by him or her in state service.

23 (c) (1) Special compensation of a school member includes any
24 payment received for special skills, knowledge, abilities, work
25 assignment, workdays or hours, or other work conditions.

26 (2) Special compensation shall be limited to that which is
27 received by a member pursuant to a labor policy or agreement or
28 as otherwise required by state or federal law, to similarly situated
29 members of a group or class of employment that is in addition to
30 payrate. If an individual is not part of a group or class, special
31 compensation shall be limited to that which the board determines
32 is received by similarly situated members in the closest related
33 group or class that is in addition to payrate, subject to the
34 limitations of paragraph (2) of subdivision (e).

35 (3) Special compensation shall be for services rendered during
36 normal working hours and, when reported to the board, the
37 employer shall identify the pay period in which the special
38 compensation was earned.

39 (4) Special compensation may include the full monetary value
40 of normal contributions paid to the board by the employer, on

1 behalf of the member and pursuant to Section 20691, provided
2 that the employer's labor policy or agreement specifically provides
3 for the inclusion of the normal contribution payment in
4 compensation earnable.

5 (5) The monetary value of any service or noncash advantage
6 furnished by the employer to the member, except as expressly and
7 specifically provided in this part, shall not be special compensation
8 unless regulations promulgated by the board specifically determine
9 that value to be "special compensation."

10 (6) The board shall promulgate regulations that delineate more
11 specifically and exclusively what constitutes "special
12 compensation" as used in this section. A uniform allowance, the
13 monetary value of employer-provided uniforms, holiday pay, and
14 premium pay for hours worked within the normally scheduled or
15 regular working hours that are in excess of the statutory maximum
16 workweek or work period applicable to the employee under Section
17 201 et seq. of Title 29 of the United States Code shall be included
18 as special compensation and appropriately defined in those
19 regulations.

20 (7) Special compensation does not include any of the following:

21 (A) Final settlement pay.

22 (B) Payments made for additional services rendered outside of
23 normal working hours, whether paid in lump sum or otherwise.

24 (C) Any other payments the board has not affirmatively
25 determined to be special compensation.

26 (d) Notwithstanding any other provision of law, payrate and
27 special compensation schedules, ordinances, or similar documents
28 shall be public records available for public scrutiny.

29 (e) (1) As used in this part, "group or class of employment"
30 means a number of employees considered together because they
31 share similarities in job duties, work location, collective bargaining
32 unit, or other logical work-related grouping. Under no
33 circumstances shall one employee be considered a group or class.

34 (2) Increases in compensation earnable granted to any employee
35 who is not in a group or class shall be limited during the final
36 compensation period applicable to the employees, as well as the
37 two years immediately preceding the final compensation period,
38 to the average increase in compensation earnable during the same
39 period reported by the employer for all employees who are in the
40 same membership classification, except as may otherwise be

1 determined pursuant to regulations adopted by the board that
2 establish reasonable standards for granting exceptions.

3 (f) As used in this part, “final settlement pay” means any pay
4 or cash conversions of employee benefits that are in excess of
5 compensation earnable, that are granted or awarded to a member
6 in connection with or in anticipation of a separation from
7 employment. The board shall promulgate regulations that delineate
8 more specifically what constitutes final settlement pay.

9 SEC. 3. Section 20814 of the Government Code is amended
10 to read:

11 20814. (a) Notwithstanding any other provision of law, the
12 state’s contribution under this chapter shall be adjusted from time
13 to time in the annual Budget Act ~~according to the following~~
14 ~~method. As part of the proposed budget submitted pursuant to~~
15 ~~Section 12 of Article IV of the California Constitution, the~~
16 ~~Governor shall include the contribution rates submitted by the~~
17 ~~actuary of the liability for benefits on account of employees of the~~
18 ~~state. The Legislature shall adopt the actuary’s. The board shall~~
19 *adopt the state contribution rates and the Legislature shall adopt*
20 *the board’s contribution rates and authorize the appropriation in*
21 *the Budget Act.*

22 (b) *In the event a memorandum of understanding goes into effect*
23 *pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing*
24 *with Section 3512) of Division 4 of Title 1) that was not previously*
25 *considered by the board in adopting its most recent annual*
26 *employer contribution rates and that memorandum of*
27 *understanding contains a change in employee retirement*
28 *contributions, benefits, or pension plan design, including a change*
29 *that alters a state employee’s retirement contributions, or there is*
30 *a change in unrepresented employees’ retirement contributions,*
31 *benefits, or pension plan design to be consistent with those of*
32 *related classifications and groups of represented employees, the*
33 *board may, in its discretion, adopt new quarterly employer*
34 *contribution rates for future contributions for the state plans to*
35 *reflect these changes. If the board adopts new rates for the state*
36 *plans to reflect a change in employee retirement contributions,*
37 *benefits, or pension plan design, the Director of Finance shall*
38 *reduce or increase the percentage levels of the state’s retirement*
39 *contribution to reflect the new rates. Nothing in this section shall*
40 *require the board to take action as described herein unless the*

1 *board determines, in good faith, that the action described herein*
2 *is consistent with the fiduciary responsibilities of the board*
3 *described in Section 17 of Article XVI of the California*
4 *Constitution.*

5 ~~(b)~~

6 (c) The employer contribution rates for all other public
7 employers under this system shall be determined on an annual
8 basis by the actuary and shall be effective on the July 1 following
9 notice of a change in rate.

10 SEC. 4. Section 21221 of the Government Code is amended
11 to read:

12 21221. A retired person may serve without reinstatement from
13 retirement or loss or interruption of benefits provided by this
14 system, as follows:

15 (a) As a member of any board, commission, or advisory
16 committee, upon appointment by the Governor, the Speaker of the
17 Assembly, the President pro Tempore of the Senate, director of a
18 state department, or the governing board of the contracting agency.
19 However, the appointment shall not be deemed employment within
20 the meaning of Division 4 (commencing with Section 3200) and
21 Division 4.5 (commencing with Section 6100) of the Labor Code,
22 and shall not provide a basis for the payment of workers'
23 compensation to a retired state employee or to his or her
24 dependents.

25 (b) As a school crossing guard.

26 (c) As a juror or election officer.

27 (d) As an elective officer on and after September 15, 1961.
28 However, all rights and immunities which may have accrued under
29 Section 21229 as it read prior to that section's repeal during the
30 1969 Regular Session of the Legislature are hereby preserved.

31 (e) As an appointive member of the governing body of a
32 contracting agency. However, the compensation for that office
33 shall not exceed one hundred dollars (\$100) per month.

34 (f) Upon appointment by the Legislature, or either house, or a
35 legislative committee to a position deemed by the appointing power
36 to be temporary in nature.

37 (g) Upon employment by a contracting agency to a position
38 found by the governing body, by resolution, to be available because
39 of a leave of absence granted to a person on payroll status for a
40 period not to exceed one year and found by the governing body to

1 require specialized skills. The temporary employment shall be
2 terminated at the end of the leave of absence. Appointments under
3 this section shall be reported to the board and shall be accompanied
4 by the resolution adopted by the governing body.

5 (h) Upon *interim* appointment by the governing body of a
6 contracting agency to a *vacant* position *during recruitment for a*
7 *permanent appointment* and deemed by the governing body ~~to be~~
8 ~~of a limited duration and requiring~~ *to require* specialized skills or
9 during an emergency to prevent stoppage of public business. These
10 appointments, ~~in addition to~~ *including* any made pursuant to
11 Section 21224 or 21229, shall not exceed a total for all employers
12 of 960 hours in any fiscal year. *The compensation for the interim*
13 *appointment shall not exceed the maximum published pay schedule*
14 *for the vacant position.* When an appointment is expected to, or
15 will, exceed 960 hours in any fiscal year, the governing body shall
16 request approval from the board to extend the temporary
17 employment. The governing body shall present a resolution to the
18 board requesting action to allow or disallow the employment
19 extension. The resolution shall be presented prior to the expiration
20 of the 960 hour maximum for the fiscal year. The appointment
21 shall continue until notification of the board's decision is received
22 by the governing body. The appointment shall be deemed approved
23 if the board fails to take action within 60 days of receiving the
24 request. Appointments under this subdivision may not exceed a
25 total of 12 months. *The governing body of a contracting agency*
26 *shall appoint a retired person only once under this subdivision.*
27 *The interim appointment made under this subdivision shall not*
28 *continue under Section 21224 or 21229 after the 12 months.*

29 (i) Upon appointment by the Administrative Director of the
30 Courts to the position of Court Security Coordinator, a position
31 deemed temporary in nature and requiring the specialized skills
32 and experience of a retired professional peace officer.

33 SEC. 5. Section 21224 of the Government Code is amended
34 to read:

35 21224. (a) A retired person may serve without reinstatement
36 from retirement or loss or interruption of benefits provided by this
37 system upon *temporary* appointment by the appointing power of
38 a state agency or public agency employer either during an
39 emergency to prevent stoppage of public business or because the
40 retired employee has *specialized* skills needed in performing work

1 of limited duration. These appointments shall not exceed a total
2 for all employers of 960 hours in any fiscal year, and the rate of
3 pay for the employment shall not be less than the minimum, nor
4 exceed that paid by the employer to other employees performing
5 comparable duties.

6 (b) (1) This section shall not apply to any retired person
7 otherwise eligible if during the 12-month period prior to an
8 appointment described in this section the retired person received
9 any unemployment insurance compensation arising out of prior
10 employment subject to this section with the same employer.

11 (2) A retired person who accepts an appointment after receiving
12 unemployment insurance compensation as described in this
13 subdivision shall terminate that employment on the last day of the
14 current pay period and shall not be eligible for reappointment
15 subject to this section for a period of 12 months following the last
16 day of employment. The retired person shall not be subject to
17 Section 21202 or subdivision (b) of Section 21220.

18 SEC. 6. Section 21228 of the Government Code is amended
19 to read:

20 21228. A person retired for disability who has not attained the
21 mandatory age for retirement applicable to persons in the
22 employment in which he or she will be employed, and whom the
23 board finds not disabled for that employment, may be employed
24 by any employer without reinstatement from retirement in a
25 position other than that from which he or she retired or a position
26 in the same member classification. His or her disability retirement
27 pension shall be reduced during that employment to an amount
28 that, when added to the compensation received, shall equal the
29 maximum compensation earnable by a person holding the position
30 that he or she held at the time of his or her retirement. Any
31 employment shall terminate upon his or her attainment of the
32 mandatory retirement age for persons in that employment. *A person*
33 *employed under this section shall not be concurrently employed*
34 *under Section 21224, 21225, 21226, 21227, or 21229, or*
35 *subdivision (h) of Section 21221.*

36 SEC. 7. Section 21229 of the Government Code is amended
37 to read:

38 21229. (a) A retired person may serve without reinstatement
39 from retirement or loss or interruption of benefits provided by this
40 system upon *temporary* appointment by a school employer or by

1 the Trustees of the California State University either during an
2 emergency to prevent stoppage of public business or because the
3 retired employee has *specialized* skills needed in performing
4 ~~specialized~~ work of limited duration, if that service does not
5 exceed, in a fiscal year, a total of 960 hours for all employers. The
6 retired person's rate of pay for this employment shall not be less
7 than the minimum, nor exceed that paid by the employer to other
8 employees performing comparable duties.

9 (b) (1) This section shall not apply to a retired person otherwise
10 eligible to serve without reinstatement from retirement, if during
11 the 12-month period prior to an appointment described in this
12 section, that retired person receives unemployment insurance
13 compensation arising out of prior employment subject to this
14 section with the same employer.

15 (2) A retired person who accepts an appointment after receiving
16 unemployment insurance compensation as described in this
17 subdivision shall terminate that employment on the last day of the
18 current pay period and shall not be eligible for reappointment
19 subject to this section for a period of 12 months following the last
20 day of employment. The retired person shall not be subject to
21 Section 21202 or subdivision (b) of Section 21220.

22 SEC. 8. Section 21490 of the Government Code is amended
23 to read:

24 21490. (a) Except as provided in subdivision (b), a member
25 may at any time, including, but not limited to, at any time after
26 reaching retirement age, designate a beneficiary to receive the
27 benefits as may be payable to his or her beneficiary or estate under
28 this part, by a writing filed with the board. *A writing filed with the*
29 *board may include a will or trust if the document lists the*
30 *retirement benefit as an asset. A will or trust may also be accepted*
31 *as a writing filed with the board if the will or trust disinherits one*
32 *or all of either the previously designated beneficiary or closest*
33 *survivor as listed in Section 21493. A will or trust that is accepted*
34 *as a writing filed with the board shall be deemed to designate the*
35 *estate or trust as a beneficiary.*

36 (b) (1) No designation may be made in derogation of the
37 community property share of any nonmember spouse when any
38 benefit is derived, in whole or in part, from community property
39 contributions or service credited during the period of marriage,
40 unless the nonmember spouse has previously obtained an

1 alternative order for division pursuant to Section 2610 of the
2 Family Code.

3 (2) No designation may be made by an unmarried member who
4 has attained the minimum age for voluntary service retirement
5 applicable to the member in his or her last employment preceding
6 death if that designation is in derogation of the rights of the
7 member's unmarried, dependent children who are under the age
8 of 18 years at the time of the member's death.

9 (c) The designation, subject to conditions imposed by board
10 rule, may be by class, in which case the members of the class at
11 the time of the member's death shall be entitled as beneficiaries.
12 The designation shall also be subject to the board's conclusive
13 determination, upon evidence satisfactory to it, of the existence,
14 identity or other facts relating to entitlement of any person
15 designated as beneficiary, and payment made by this system in
16 reliance on any determination made in good faith, notwithstanding
17 that it may not have discovered a beneficiary otherwise entitled to
18 share in the benefit, shall constitute a complete discharge and
19 release of this system for further liability for the benefit.

20 SEC. 9. Section 21493 of the Government Code is amended
21 to read:

22 21493. (a) If a person had no beneficiary designation in effect
23 on the date of death, any benefit payable shall be paid to the
24 survivors of the person in the following order:

25 (1) The decedent's spouse.

26 (2) The decedent's natural or adopted children, including a
27 natural child adopted by another who meets the following criteria:

28 (A) The natural parent and adopted child lived together at any
29 time as parent and child or the natural parent was married to or
30 was cohabiting with the other natural parent at the time the child
31 was conceived and died before the birth of the child; and

32 (B) The child was adopted by the spouse of either of the natural
33 parents or after the death of either of the natural parents or the
34 child is a natural child adopted by another as that phrase is defined
35 or construed by the Probate Code.

36 (3) The decedent's parents.

37 (4) The decedent's brothers and sisters.

38 (b) If a deceased person had no effective beneficiary designation
39 and there are no survivors in the groups specified in subdivision

40 (a) who are entitled to the benefit under this section, the benefit

1 shall be paid to the estate of the decedent, if the estate is either
2 probated or subject to probate. Any benefit payable by this system
3 may be paid either to the estate or to the duly authorized
4 representative or representatives of the estate upon receipt by this
5 system of a court order appointing an executor, administrator, or
6 personal representative. *If the estate is handled by a Public*
7 *Administrator, the benefit may be paid upon receipt by this system*
8 *of a court order authorizing the Public Administrator to proceed*
9 *summarily pursuant to paragraph (1) of subdivision (a) of Section*
10 *7660 of the Probate Code.*

11 (c) If there are no survivors in the groups specified in
12 subdivision (a) and the estate of the person described in subdivision
13 (b) does not require probate, irrespective of whether probate is
14 filed, *or is not handled by a Public Administrator pursuant to a*
15 *court order authorizing the Public Administrator to proceed*
16 *summarily pursuant to paragraph (1) of subdivision (a) of Section*
17 *7660 of the Probate Code*, the benefit shall be paid directly to the
18 decedent's trust.

19 (d) If there are no survivors in the groups specified in
20 subdivision (a) and the estate of the person described by
21 subdivision (b) does not require probate, irrespective of whether
22 probate is filed, *or is not handled by a Public Administrator*
23 *pursuant to a court order authorizing the Public Administrator to*
24 *proceed summarily pursuant to paragraph (1) of subdivision (a)*
25 *of Section 7660 of the Probate Code* and the decedent has not
26 established a trust as described by subdivision (c), the benefit shall
27 be paid directly to the surviving next of kin in the following order.

28 (1) Stepchildren.

29 (2) Grandchildren, including stepgrandchildren.

30 (3) Nieces and nephews.

31 (4) Great grandchildren.

32 (5) Cousins.

33 (e) For purposes of determining the application of subdivisions
34 (b), (c), and (d) the amount of the benefit payable from this system
35 shall not be included in calculating the worth of the estate.

36 (f) For purposes of this section, the term "stepchild" shall mean
37 a person who had a regular parent-child relationship with the
38 deceased person.

39 SEC. 10. Section 21506 of the Government Code is amended
40 to read:

21506. Any monthly allowance payable to a person, that had accrued and remained unpaid at the time of his or her death, or any uncashed warrant issued prior to the date of death of the person that has been returned to this system, or any balance of prepaid complementary health premiums received pursuant to Section 21691 or prepaid complementary annuitant health plan premiums received pursuant to Section 22802, shall be paid in the following order:

(a) In the event of the death of a retired person, to one of the following:

(1) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(2) The survivor entitled to payment of the survivor continuance benefit provided under Section 21624.

(3) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retired person if the person had not chosen an optional settlement and there was no survivor who was entitled to receive the survivor continuance benefit.

(b) In the event of the death of a person receiving a survivor benefit, that benefit shall be paid to the beneficiary designated by the survivor of a member under Section 21491.

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, ~~or~~ personal representative *or Public Administrator pursuant to a court order authorizing the Public Administrator to proceed summarily pursuant to paragraph (1) of subdivision (a) of Section 7660 of the Probate Code*. If the estate does not require probate *or is not handled by a Public Administrator pursuant to a court order authorizing the Public Administrator to proceed summarily pursuant to paragraph (1) of subdivision (a) of Section 7660 of the Probate Code* and the deceased person had a trust, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

(d) If there is no beneficiary entitled to receive payment of benefits under subdivision (a), (b), or (c), the benefits shall be paid to the surviving next of kin of the person pursuant to the order of distribution specified in Section 21493.

1 SEC. 11. Section 21507 of the Government Code is amended
2 to read:

3 21507. Any lump-sum benefit, or any uncashed lump-sum
4 death benefit warrant, payable by this system to a beneficiary shall
5 be paid to the estate of the beneficiary if he or she dies prior to
6 payment of the benefit. The benefit may be paid to a representative
7 of the deceased beneficiary's estate, upon demonstration by court
8 documents that the person is authorized to act in that capacity. *If*
9 *the estate is handled by a Public Administrator, the benefit may*
10 *be paid upon receipt by this system of a court order authorizing*
11 *the Public Administrator to proceed summarily pursuant to*
12 *paragraph (1) of subdivision (a) of Section 7660 of the Probate*
13 *Code. If the estate does not require probate or is not handled by a*
14 *Public Administrator pursuant to a court order authorizing the*
15 *Public Administrator to proceed summarily pursuant to paragraph*
16 *(1) of subdivision (a) of Section 7660 of the Probate Code, and*
17 *the deceased person was the trustor of a trust, benefits may, in the*
18 *judgment of the board, be paid to the trustee as named in the trust.*
19 *If the estate is not probated, and the beneficiary was not the trustor*
20 *of a trust, benefits shall be paid to the beneficiary's surviving next*
21 *of kin, in the order specified in Section 21493.*

22 SEC. 12. Section 21533.5 is added to the Government Code,
23 to read:

24 21533.5. (a) To the extent required by Section 401(a) of Title
25 26 of the United States Code, if a member dies while performing
26 qualified military services, the survivors of the member shall be
27 entitled to any additional benefits, as determined under Section
28 401(a)(37) of Title 26 of the United States Code, that would have
29 been provided under the system had the member resumed his or
30 her prior employment with an employer that maintains the system
31 and then terminated employment on account of death. Death of a
32 member while performing qualified military service shall not be
33 treated as a service-connected death or disability. Service for
34 vesting shall be credited to a member affected by this section for
35 the period of his or her qualified military service.

36 (b) "Additional benefits" under this section shall not include
37 benefit accruals relating to the period of qualified military service.

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